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Attorneys for Plaintiffs,  
UMG RECORDINGS, INC.; CAPITOL  
RECORDS, INC.; BMG MUSIC;  
ATLANTIC RECORDING  
CORPORATION; ELEKTRA  
ENTERTAINMENT GROUP INC.; SONY

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UMG RECORDINGS, INC., a Delaware  
corporation; CAPITOL RECORDS, INC., a  
Delaware corporation; BMG MUSIC, a New  
York general partnership; ATLANTIC  
RECORDING CORPORATION, a Delaware  
corporation; ELEKTRA ENTERTAINMENT  
GROUP INC., a Delaware corporation; SONY  
BMG MUSIC ENTERTAINMENT, a Delaware  
general partnership; and INTERSCOPE  
RECORDS, a California general partnership,

Plaintiffs,

v.

MEILING FELICITAS JOHANNA  
WACHHOLZ-YEE,

Defendant.

CASE NO. 3:07-CV-04852-VRW

Honorable Vaughn R. Walker

**EX PARTE APPLICATION TO EXTEND  
TIME TO SERVE DEFENDANT AND  
~~PROPOSED~~ ORDER**

1 Plaintiffs respectfully request, pursuant to the Federal Rules of Civil Procedure, Rules 4(m)  
2 and 6(b)(1)(A), that the Court grant an additional 90 days to serve Defendant with the Summons and  
3 Complaint. As further explained below, Plaintiffs believe Defendant is out of the country and thus  
4 have been unable to personally serve her with process. In support of their request, Plaintiffs state as  
5 follows:

6 1. Plaintiffs filed their initial Complaint for Copyright Infringement against a  
7 John Doe defendant on September 20, 2007. In order to obtain information sufficient to identify the  
8 Doe defendant, Plaintiffs also filed their *Ex Parte* Application for Leave to Take Immediate  
9 Discovery, seeking the Court's permission to serve a Rule 45 subpoena on Defendant's Internet  
10 Service Provider ("ISP"). On October 1, 2007, the Court issued its Order for Leave to Take  
11 Immediate Discovery, which was served on the ISP along with a Rule 45 subpoena. On November  
12 16, 2007, the ISP responded to Plaintiffs' subpoena, identifying the Defendant, Meiling Felicitas  
13 Johanna Wachholz-Yee.

14 2. After the ISP identified Ms. Wachholz-Yee, Plaintiffs sent her a letter  
15 notifying her of their claims for copyright infringement and encouraging her to make contact to  
16 attempt to amicably resolve this matter. Although settlement discussions later took place, the parties  
17 did not reach a settlement.

18 3. Accordingly, on February 11, 2008, Plaintiffs filed their First Amended  
19 Complaint naming Ms. Wachholz-Yee individually as Defendant.

20 4. Plaintiffs then engaged a process server and unsuccessfully attempted  
21 personal service on Defendant. However, Plaintiffs are informed and believe that Defendant has  
22 been residing in Germany, and is still residing there. Plaintiffs will therefore attempt alternate forms  
23 of service.  
24

25 5. The current deadline for service of process is April 17, 2008. While this case  
26 was still in the Doe stage, the Court granted Plaintiffs' previous request for a 90-day extension of the  
27 service deadline by its Order of January 23, 2008. Given the circumstances of this case, Plaintiffs  
28 respectfully request an additional 90 days to effectuate service.

1           6.       Plaintiffs submit that their initial efforts to contact Ms. Wachholz-Yee and  
2 resolve this case before naming her individually in the lawsuit, as well as their subsequent attempt to  
3 personally serve her with the First Amended Complaint, constitute good cause under Rule 4 for an  
4 extension of time for service. *See Gambino v. Village of Oakbrook*, 164 F.R.D. 271, 275 (M.D. Fla.  
5 1995) (finding good cause to expand the time limit for service where plaintiff made a “reasonable  
6 effort” to serve defendant); *see also Matasareanu v. Williams*, 183 F.R.D. 242, 245-46 (C.D. Cal.  
7 1998) (stating good cause standard for service extensions). In addition, unlike a traditional case  
8 where the defendant is known by name and service attempts can begin immediately after the  
9 complaint is filed, in this case Plaintiffs first had to obtain Defendant’s identity through the subpoena  
10 to the ISP. This Court has discretion to enlarge the time to serve even where there is no good cause  
11 shown. *Henderson v. United States*, 517 U.S. 654, 658 n. 5 (1996).

12           7.       Because the copyright infringements here occurred in 2007, the three-year  
13 limitations period for these claims has not expired. *See* 17 U.S.C. § 507(b) (2000). There can thus  
14 be no prejudice to Defendant from any delay in serving the Complaint.  
15

16           8.       Plaintiffs will provide Defendant with a copy of this request and any Order  
17 concerning this request when service of process occurs.  
18

19 Dated: April 17, 2008

HOLME ROBERTS & OWEN LLP

20  
21 By: /s/ Matthew Franklin Jaksa

MATTHEW FRANKLIN JAKSA

Attorney for Plaintiffs  
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**ORDER**

Good cause having been shown:

**IT IS ORDERED** that, pursuant to the Federal Rules of Civil Procedure, Rules 4(m) and 6(b)(1), Plaintiffs' time to serve the Summons and Complaint on Defendant be extended to July 16, 2008.

Dated: April 22, 2008

